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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

CHERYL LEE TOMLINSON,)	
)	
)	Case No. _____
Plaintiff,)	
)	COMPLAINT
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

COMES NOW the Plaintiff, Cheryl Lee Tomlinson, by and through her attorney, Raymond A. Nesbett, and for her cause of action against the Defendant, United States of America, complains and alleges as follows:

1.

This cause of action arises under the Federal Tort Claims Act, 28 U.S.C. Sec.1346(b) and 2671. et. seq.

2.

Plaintiff, Cheryl Lee Tomlinson, at all times pertinent hereto, was a resident of Anchorage, Alaska.

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3.

Plaintiff alleges that Albert Alan Martin at all times pertinent hereto was a resident of Anchorage, Alaska, and was an employee of the United States Postal Service acting within the course and scope of his employment.

4.

The United States Postal Service at all times pertinent hereto was an established federal agency of the United States of America.

5.

The claim being made herein was first presented in writing to the United States Postal Service by administrative claim Form 95 and after reconsideration this claim was denied by final action on August 15, 2007. This suit is timely filed pursuant to 28 U.S.C. Sec. 2675.

6.

On or about January 10, 2004, at approximately 3:00 p.m., Albert Alan Martin was driving a United States Postal Service truck in an easterly direction on Lexington Street, Anchorage, Alaska. At this same time Plaintiff, Cheryl Lee Tomlinson, was driving her Ford truck in a northerly direction on Trenton Street.

7.

As Cheryl Lee Tomlinson approached the intersection of Trenton and Lexington Streets, Albert Alan Martin failed to yield the right-of-way and crashed his truck into the truck being driven by Cheryl Lee Tomlinson. Cheryl Lee Tomlinson's truck was forced partially off the road and onto the northeast corner of the intersection by the force of the collision.

8.

At all times pertinent hereto Albert Alan Martin was negligent for the following reasons, including, but not limited to: failing to yield the right-of-way; failing to maintain a proper lookout for other traffic in the vicinity; and failing to maintain control over his vehicle while driving on a public street.

9.

The Anchorage Police Department investigating officer cited Albert Alan Martin for his violation of the municipal traffic regulations. The violation of the cited traffic regulation by Albert Alan Martin, which violation was the direct and proximate cause of the collision

described above, constitutes negligence per se.

10.

As a direct and proximate result of the above negligence, Cheryl Lee Tomlinson incurred damages to her truck in excess of \$4,700, and she incurred personal injuries, including, but not limited to: injury to her right shoulder, right arm and hand; cervical disc protrusions at C5-6 and C6-7 with annular tears to the discs at C6-7, and injury to T6-7. Cheryl Lee Tomlinson has incurred pain and suffering and will continue to incur pain and suffering. She has incurred medical bills in the past and will continue to incur medical bills in the future. She has incurred disability in the past and will incur permanent disability in the future. She has incurred loss of enjoyment of life in the past and will continue to incur loss of enjoyment of life in the future. She has incurred lost wages in the past and will continue to incur lost wages in the future, and she will also incur a loss of earning capacity in the future. Cheryl Lee Tomlinson will require and incur surgery for her injuries. Cheryl Lee Tomlinson's injuries are still being treated and there may be damages that she will incur that are as yet unknown.

11.

In accordance with the laws of the state of Alaska, and under the doctrine of respondeat superior, the United States is responsible for the negligent acts of Albert Alan Martin committed within the course and scope of his employment by the United States Postal Service.

WHEREFORE, Plaintiff, Cheryl Lee Tomlinson, prays for judgment against the United States of America for her general and special damages in an amount in excess of \$100,000, plus prejudgment interest, costs and attorneys fees.

Dated February 8, 2008

RAYMOND A. NESBETT
A Professional Corporation

by Raymond A. Nesbett
Raymond A. Nesbett
Alaska Bar No. 6503016

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